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W.R. Grace and Asbestos News

Reported in *The Western News*, Libby, Montana

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Advisory group hears emotional presentation

By Roger Morris, Western News Publisher

Raintree Nursery owner Lerah Parker gave an emotionally charged presentation to the Community Advisory Group Thursday night urging the committee and the community to not forget the impact the asbestos contamination issue is having on local businesses.

"I stand before you as a business person who is in trouble," Parker said.

With the help of EPA team leader Paul Peronard, she put a large boulder wrapped in plastic on the table.

"This is the rock that rocks Libby," she said, explaining it was a landscape rock from her nursery. Peronard said the rock was about 70 to 80 percent tremolite, the form of asbestos that has caused death and illness among Libby residents who worked at the former Zonolite and W.R. Grace vermiculite mine as well as their families.

Next month, the EPA will begin dismantling the buildings that comprise Raintree Nursery and the Parker home because of high content of tremolite dust in the buildings and surrounding grounds. The materials will be removed to the former mine site.

"I made a mistake putting my eggs in one basket with the nursery," Parker said holding up a white basket of colored eggs.

She held up a green egg and said it represented the reforestation seedling portion of her business. She cracked the egg and dropped the contents and shell into a mixing bowl.

"Gone," she said.

Next she held up another colored egg representing her landscaping business. Again she cracked the egg and dropped the contents and pieces in the bowl.

"Gone," she said, again.

She held up another egg, representing her Reishi mushroom business, which included a partnership of 16 people. Another egg represented her herbal tea business. After identifying each egg, she cracked it and dropped it into the mixing bowl.

"All gone," she said. "The love of my life and it's gone, all gone. All my eggs are broken."

As news of the Libby asbestos problem spread, and Raintree's customers learned that the nursery is located on the site of the former screening plant for the vermiculite mine, they canceled orders, Parker said.

She said people in Libby refused to purchase Christmas trees, clients canceled orders and a pre-school in town refused to take reforestation seedlings for a planting project. The seedlings were packed in vermiculite potting soil from Chandler, Ariz., Parker said.

She warned Libby residents and businesses to change their mindset and to get involved in the asbestos remediation work in Libby.

"Personal interests should not be represented here," Parker continued. "The committee must consider the needs of the community. I feel sometimes this group is a special interest group."

"We all have to bend if we're going to pull this community together," she said. "Why can't we come together and stand together to plan for new hope and a new future. There will never be enough money."

Parker also asked why nobody warned her and her family about the dangers of running a business and living at the former Grace screening plant. She said she exposed her family including grandchildren to the deadly tremolite dust.

The loss of the business with its local purchases and jobs will impact the community, too, she said.

Peronard said the problem has hit the Parkers directly and people reacted poorly to the Raintree problem.

"I'm making work plans to destroy everything they have worked for in their lives," he said.

"They have the health problem, too. I don't think you can fathom the depths they are in."

He continued, "If there's a time for a community to reach out it's that time. I haven't seen a big support network for them."

Senate committee OKs funds

Libby got an initial nod from the Senate appropriations committee Tuesday afternoon on \$11.5 million in economic development and medical funding.

The committee passed an amendment approving U.S. Sen. Conrad Burns' request for \$11.5 million to help Libby deal with problems associated with asbestos exposure from a former vermiculite mine near Libby.

The money will be included in an Agricultural Appropriations bill for the fiscal year 2001 but funds will be available to the community as soon as it passes Congress and is signed by the president, said Larry Akey, a staff member for Burns' office.

The funding includes \$3.5 million for St. John's Lutheran Hospital to meet expanded health care needs of the community. The remaining \$8 million would go to the community for other asbestos-related health, environmental and economic needs.

"Libby has been hit by a double tragedy," Burns said Tuesday. "Not only have asbestos-related illnesses struck many Libby residents, but all of the publicity surrounding the events has driven away potential investors and curtailed tourism."

While news in terms of contamination of homes continues to be encouraging, it is critical that everything possible be done to give the people of Libby and Lincoln County a clean bill of health, Burns said.

Burns and Sen. Max Baucus were in Libby for a senate subcommittee field hearing on the asbestos problem earlier this year. Both senators pledged to look for economic development funding for the area.

"I am extremely encouraged by today's events because the citizens and town of Libby have gone through a lot," Baucus said. "This money will greatly help the victims of asbestos exposure and help the town of Libby rebuild itself."

Community leaders have had preliminary discussion on how to best use the \$8 million for the long-term benefit of the community. One suggestion has been to create an economic development trust fund in which only the interest earnings on the principal would be used to match grants for community-wide projects.

EPA moving ahead on property cleanup

By Brent Shrum, Western News Reporter

Plans are moving ahead for the cleanup of two former W.R. Grace processing plants in the Libby area with work on the ground expected to begin in about a month.

"We're taking steps now to make sure the cleanups happen this summer," said Paul Peronard, on-scene coordinator for the federal Environmental Protection Agency.

The EPA had been negotiating with Grace on the proposal until about two weeks ago, when the company announced it would not agree to a consensual cleanup plan. Grace said it preferred that the EPA issue a unilateral cleanup order, which would allow the company to appeal various parts of the plan and associated costs.

Cleanup work has been delayed by the process of negotiating with Grace, Peronard said.

"In retrospect, it turned out to be a rather nonproductive negotiation process and that's really the rub," he said.

The EPA now has two options. It can develop a plan and order Grace to do the work, as the company prefers, or it can choose the "fund lead" option and use federal environmental Superfund money to hire a contractor to do the work, billing Grace later.

EPA policy favors enforcement when possible over a fund lead, preferring to preserve the

Superfund for situations where a company like Grace cannot be held accountable, Peronard said.

A fund lead, however, gives the EPA more control over the cleanup and more flexibility in dealing with unexpected situations, Peronard said. It also tends to be a faster process because it eliminates the middleman.

The EPA's regional office in Denver has recommended a fund lead at the former screening plant at the base of Rainy Creek Road, now owned by Mel and Lerah Parker. The Parkers live at the site and operate their business, Raintree Nursery, there. A unilateral order has been recommended for the former expansion plant in Libby, now owned by the city and operated as an industrial park.

EPA headquarters is expected to make a decision on the regional office's recommendations next week, Peronard said. He noted that the level of attention the Libby project is receiving across the country is unusually high compared to typical EPA cleanup actions.

"Any way you look at it, this is complicated and high profile," Peronard said.

The work to be done at the two sites will be similar in that soil and buildings at both sites are contaminated with asbestos, which occurred alongside the vermiculite Grace mined near Libby. But there is more contamination at the Parkers' property, there are more facilities to be dealt with, and there is the added complication of the site being home to the property owners. Work at both sites will be done concurrently, but the project at the Parkers' property is starting at a faster pace. The first task, one that is now under way, is for the EPA to help find temporary housing for the Parkers and get them moved off the property. Then all the buildings will be demolished.

"So basically everything up there gets leveled," Peronard said.

The soil at the property will be removed to a depth of 6 inches to 2 feet and then replaced and planted with vegetation. Cleanup actions will likewise be taken at the former railroad loading area across the river from the Parkers' property, where the soil is also contaminated with asbestos.

The EPA will work with the Parkers on the details of the replacement of the buildings. The end result can range from exact replacement to a lump sum cash payment.

"Typically it's some combination of that," Peronard said.

The EPA is working with the city and its tenant at the industrial park, Millwork West, to find a temporary location for the business while that site is cleaned up.

The city will have input on the replacement of facilities at the industrial park and is considering various options including the addition of water lines to the site. In the end, it will be up to the city as long as the cost is the same, Peronard said.

Under Superfund, property owners like the Parkers can be reimbursed for their buildings and for the cost of moving to another location while the cleanup is taking place but not for lost business or income. That was one of the hoped-for outcomes of the negotiations with Grace, Peronard said.

"We didn't want them to have to litigate for their lost business interests," he said.

Advisory group to act as medical trust committee

By Brent Shrum, Western News Reporter

The Environmental Protection Agency's community advisory group on W.R. Grace and asbestos agreed at an April 27 meeting to act as a steering committee for a community medical trust proposed by St. John's Lutheran Hospital.

The trust proposal is aimed at providing care for victims of asbestos exposure whose needs may not be fully met by a health plan offered by former mine owner W.R. Grace.

The Grace plan is open to former employees and Libby-area residents who have been diagnosed with an asbestos-related lung condition. The program will pay for services and supplies for treatment of asbestos-related illnesses.

Hospital officials have been critical of what they see as gaps in the plan's coverage. The cost of an initial diagnosis is not covered, and neither are non-medical needs such as respite for family caregivers, counseling, and comfort care. In addition, the Grace plan does not guarantee coverage would continue if the company were no longer in business.

As proposed by hospital chief executive officer Rick Palagi, the trust would be run by an independent organization formed and overseen by members of the community, separate from any private companies or healthcare providers, including St. John's.

The amount of money needed for the trust is uncertain, Palagi told the community advisory group.

"I could pick a number out of the air and it's probably as good as anybody else picking a number out of the air right now," he said. "I have no idea."

Estimates range from \$50 million to \$300 million, he said. Funding could come from a variety of sources including Grace, the federal government and philanthropic individuals and organizations.

Palagi asked the group if it agreed the trust is worth pursuing, and most members agreed that it is.

"This is a no-brainer," Cyrus Lee said. "It's the right thing to do, and it's not costing Libby." There's clearly a need for such a trust, Gayla Benefield said.

"We know that we have a certain segment of our population that's going to live and die with this disease," she said.

A local solution is better than something from Grace's corporate offices or from Washington, D.C., Benefield said.

"I'm entirely in favor of anything having to do with the medical needs of Libby coming out of Libby," she said.

The community's medical needs won't be met by the Grace plan, LeRoy Thom said.

"Their program here, quite frankly, stinks," he said.

County health officer Dr. Brad Black said the Grace plan could exclude up to 80 percent of the people whose health is now impacted by asbestos.

"We have to have something out here that challenges and says, 'No, we need better care than that,'" he said.

Advisory group member Carol Ray, however, said the trust proposal is vague and questioned its viability.

"Is it something that even begins to be doable?" she asked Palagi. "\$300 million? From where?"

Palagi said it's too early to discuss specifics. He said his intent was to get the group's opinion on whether the concept of a community medical trust makes sense.

"I don't know if it makes sense because I don't know how big of a problem it is," Ray said. She questioned the scope of the proposal.

"Who all are you going to cover?" she asked. "Everyone who's ever passed through Libby? Everyone who's ever been touched by Grace's plant?"

The plan would act as an insurance program funded by a trust, Black said, and wouldn't require treatment at St. John's or in Libby, Black said. But Ray expressed concerns over the hospital's involvement in setting up the trust.

"This isn't going to be a popular statement, but St. John's hospital has a vested interest in how this is going to be set up, and this has to be set up separate from any vested interests," she said.

The community advisory group as a whole agreed to support the trust proposal and to act as a steering committee to guide its development. The group also agreed to ask the EPA for funding to help set up the framework for the trust.

Grace settles Wilkins suit

A lawsuit against W.R. Grace that was scheduled for trial in Missoula this week settled out of court on Friday.

The trial in a suit brought by Libby resident and former Grace employee Robert A. Wilkins was moved to Missoula after District Judge Michael Prezeau ruled that it would be nearly impossible to find an unbiased jury in Lincoln County.

In past settlements between Grace and former employees, or family members of employees, terms of the settlement were kept confidential.

The Wilkins case was originally scheduled for trial in January. It and a consolidated trial for suits filed by Royce and Helen Ryan and Robert and Nettie Johnson had been rescheduled for May 1 in Prezeau's change of venue ruling. The Ryan/Johnson case was to have gone to trial if the Wilkins case settled, but the last-minute settlement precluded another trial from beginning on such short notice.

About 155 civil suits have been filed against Grace by former Libby employees and/or their families. In addition, a pair of class action suits, including Libby and former mine employees, were filed earlier this year.

As of earlier this year, 60 cases had been settled, and five went to trial with one, Ken and Edith Finstad vs. Grace, resulting in a verdict with punitive damages awarded. It has been appealed.

In 64 cases, Grace has paid out \$15.6 million in awards for an average of \$244,000 per case.

Prezeau moved the Wilkins and Ryan/Johnson consolidated trial after Grace's attorneys sought a change of venue. Grace argued that a fair trial would be impossible in Libby due to widespread publicity on the issue of long-term health problems associated with exposure to the asbestos that occurred as a contaminant in the vermiculite ore mined at Libby. Prezeau agreed.

"Frankly, it's difficult to imagine a situation in which more doubt could be raised about a court's ability to empanel an unbiased jury and conduct an impartial trial," he wrote in an order granting the motion.

Prezeau noted that illness and death associated with exposure to asbestos in Libby had been front-page news in local, regional and national publications for several months. The story has also been reported in regional and national television news broadcasts.

The reports have included "extensive editorializing by members of the community as well as by state and national political figures," Prezeau said. He noted that the stories have suggested that members of the community with no employment or family ties to Grace may be at risk due to exposure from asbestos.

Prezeau said he is hopeful that at some point, after the federal Environmental Protection Agency concludes its testing for asbestos contamination in homes, at former Grace property and at other sites around the Libby area, it may again be possible to try cases in Libby.

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Hospital proposes medical trust

A community medical trust is being proposed by St. John's Lutheran Hospital to provide care